

**Encourage to Arrest Project Advisory Council
July 11, 2003 Meeting Notes
Helena, MT**

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**Next meeting of the Advisory Council:
Friday, November 7, 2003
10 AM — 4 PM in Helena**

The Advisory Council's Five Goals

1. Address the inadequate reporting of Orders of Protection and firearm disqualifications into CJIN/NCIC.
2. Address the non-uniformity of the Full Faith and Credit training within the state.
3. Grow the use of the Protection Order cover sheet.
4. Bring about the active support and commitment from the major participants.
5. Initiate and support key legislation.

Highlights of the first meeting of the group: What stands out as significant to you?

- The reality of improving Full Faith and Credit systems – a huge challenge.
- Order of Protection forms – need for consistency between Tribal communities and the rest of the state.
- Need of simplification of the Orders of Protection.
- Training possibilities for people in the field.
- Need for consistency from state-to-state and less paperwork.
- Differences in federal and state laws, and difficulty in getting the federal laws enforced.
- The tracking system, and how the Order follows the petitioner.
- All the different agencies involved and how many others need to be

U.S. Attorney's Office (USAO) report

Marcia Hurd gave the group some insights...

- No cases have been brought to their office. They can't be brought to the USAO from a local law enforcement agency. There must be a federal agency involved — BIA, FBI or ATF.
- Firearms are a priority to the USAO. Marcia recommended we focus on referrals to them that involve gun prosecutions. Discussion ensued regarding the ambiguity of weapons seizure. Should there be seizure of "the" weapon used in the assault, or all weapons in the perpetrator's possession?
- The defendant has to be represented by counsel or knowingly waive the right. In light of recent rulings in the 9th Circuit, defendants are discouraged to waive counsel. Defendants must be specifically advised of the loss of the right to bear firearms should they be convicted and/or have a protection order filed against them. The waiver of rights presented in an initial appearance may not be sufficient. In a protection order hearing, which is a civil proceeding, the respondent should be made aware of the loss of firearms. If a respondent is not represented by counsel, then a waiver should be signed acknowledging that notice was given.
- In the last six months, the USAO has been involved in an effort called Project Safe Neighborhoods, which was designed to get guns off the streets. There has been a feeling and experience on the federal level that ATF will not always follow-up on requests to investigate issues. Marcia encouraged advisory council members to let the USAO know of specific incidents of this happening.
- The USAO has had only two cases involving guns in the last two years. We need to build a system (and a form) so that the USAO gets notified when an ATF referral takes place.
- The USAO needs to know if there is an immediate need for an Order of Protection. In federal cases, either the defendant is detained or released pending trial – there are no other choices (no parole) in the Federal system.
- Federal cases are to be tried within 70 days. They can't wait for further evidence to be gathered. They need complete case files to be submitted in order to be ready to proceed to trial within the 70-day time limit.
- The USAO is in the process of developing new policy for handling federal violations of protection orders. The office hopes to have this Prosecution Guideline Manual in place by year's end. Priorities as set by Washington are currently terrorism, number 1 and firearms, number 2. These priorities often change when the administration changes, however, the bottom line is that nothing can or will be done on a federal level unless cases are referred.
- The USAO does regional trainings each year and would welcome input from the advisory council and ETA staff in the areas of our work.

Order of Protection Cover Sheet

Ali presented the latest draft for our review. If crossing state, county or Tribal lines, the forms should look similar and be consistent and uniform. Doing so will provide for better protection for law enforcement and the petitioners.

The group made the following suggestions, which Ali will incorporate and re-circulate for the group's review:

1. Add Tribal check box in the upper right corner box.
2. On Page 3, following the WARNING's first sentence, add "or applicable Tribal or Federal law."
3. On Page 1, add a space for judges to sign above the WARNINGS TO RESPONDENT.
4. On Page 1, remove the line for clerk's signature and date served, items number 19, 20 and 21.
5. Add some space for a date stamp in upper right hand corner
6. Add the thought "Please provide the Clerk of Court with the petitioner's personal contact information on a separate document."
7. From our conversation about the CJIN system, we suggested the addition of a space for "dissolved order and date."

How can we increase the use, expand the use, and foster a more thorough use of the new/ revised form we just edited?

- Distribute it to all jurisdictions and DV advocates, safe houses, shelters, and across the state within the month.
- Distribute it to libraries.
- Put it on the Attorney General's website.
- Train the clerks of the District Courts for inclusion in all District Court proceedings involving protection orders i.e. Dissolutions, Child Custody, Youth in Need of Care, etc.
- Provide training for advocates.
- Follow up with clerks, judges, and advocates to encourage and push its use.
- Provide training for limited jurisdiction court judges and clerks.
- Push for use by other states in our region.

Training and the Training Manual

Eleanor reviewed with us the training manual that is being distributed next month, and how it will be used. A shorter handbook may also be developed next year.

Eleanor is available to train whatever groups we recommend. We can let Joan know of our needs and suggestions. Already scheduled are:

June	Sheriff's conference, including 30-35 new officers
July	Police Chief's convention in Lewistown
August	District Court clerks
October	City Attorneys and DV groups
December	County Attorneys

What else can we do to make the manual even more useful and useable?

- Make it available on disk and on line at the Attorney General's website.

NCIC / CJIN data and what we want to see

Karen and Nancy briefed us on the system.

There are approximately 150,000 criminal offender records in the Montana Criminal History Record System. Montana law requires that law enforcement agencies submit fingerprint images on any person charged with a felony in the state. That said, most of the offenses reported to the repository are misdemeanor offenses. Approximately 220 partner/family member assaults (PFMA) are reported to the repository each month; this is approximately 40% fewer than the PFMA arrests reported by law enforcement agencies to the Montana Board of Crime Control for inclusion in the Uniform Crime Reports and the National Incident Based Reporting System.

Currently, there are approximately 2,000 protection orders entered into the FBI's National Crime Information Center (NCIC) by Montana law enforcement agencies.

What do we want to see in technology improvements?

- Look at ways to improve the flow of qualifying protection and restraining orders from courts/clerks to local law enforcement agencies for subsequent entry into the CJIN/NCIC.
- On the Cover Sheet, add a space for "dissolved order and date."
- Use Cover Sheet on District Court documents that incorporate orders of protection.
- Promote the use of the Cover Sheet in Tribal Courts.
- Work on training efforts to ensure that the Brady indicator is used correctly in the NCIC Protection Order File.
- Identify, develop and deploy a mechanism (preferably automated) to ensure all qualifying protection orders are entered in a timely and lawful manner into the NCIC protection order file.
- One-on-one communication with Tribal Judges to identify the best possible solution for exchange and enforcing protection orders in their jurisdiction.
- Approach Tribal Councils, government-to-government, and ask for cooperation and an inter-local government agreement.
- Identify where Protection Orders are not being entered through agency contacts and data analysis.
- Offer NCIC installation to tribal governments without terminals and offer to finance the first year's subscription fees.
- Explore the possibilities of being able to fill out the cover sheet form on the computer.

How should the requirement to enter protection orders be audited and enforced?

- If an agency is not able or unwilling to make an entry can the MDOJ make the entry on behalf of the issuing court?

Summit meeting and professional training *first draft* plans

A joint meeting will be held between the principal players – *or* – individual meetings will be held with them to ask for their support, endorsement and blessing of both Full Faith and Credit *and* a cross-profession training on the subject.

The principals are: the Attorney General, Supreme Court Justice Karla Grey, Governor Judy Martz, the US Attorney, and Tribal Chairs. They will be the hosts of the joint training.

Who will be invited to the cross-profession training?

Tribal Judges	ATF	MACOP
Tribal Councils	FBI	MACO
Tribal Prosecutors	BIA	Social Workers Assn.
Clerks Association	City Prosecutors	County Attorneys
MT Magistrates Association	Sheriff and Peace Officers	
Department of Corrections	MT Assn. of Criminal Defense Attorneys	
MT Judges Association	Department of Public Health and Human Services	
Federal Defenders	US Probation Officers	
MCADSV and other victim advocate organizations		

What do we envision at this training event? Some ideas

- A big name speaker, a draw.
- Cross-professions.
- Cross-Tribal and community interaction.
- Tribal, Federal, District and Limited Court Judges.
- Time allocated to social, less structured interactions.
- Panel of Judges.
- Highlighting a site where Tribal and District Judges currently work well together.
- Stress Tribal sovereignty to Tribes, that their jurisdiction will be threatened.
- Panel of Summit members would be a great draw.
- Firearms might be a theme that would draw well, tied to DV fatalities. Lately there is one DV fatality taking place in Montana each month. We could address:
 - a. CJIN
 - b. Tribal and non-Tribal
 - c. Cover sheets
 - d. Why FF&C is crucial: when it works, people's lives (women, children and officers) are saved.
- Speaker ideas:

- a. Dr. D. Bartlett, American Indian from North Dakota, Shirley has info about this person.
 - b. Staff Attorney: Fannie Hasselbaum.
- Survivor presentation: Holly knows someone who has a healthy attitude and does a good job of conveying how it feels.

What are we hoping to accomplish? If we are successful, what outcomes are we seeking?

- Open lines of communication.
- Everyone in functioning on the same page, seeing the value and purpose of Full Faith and Credit.
- Educate people about
 - a. CJIN reporting gaps;
 - b. Paper work solutions;
 - c. DV 101 to overcome apathy and grow understanding of the big picture of DV.

Legislative ideas / possibilities

a running brainstormed list, not in any particular order, that we can add to at each meeting

1. Mandatory reporting for misdemeanors.
2. Address “standing” and “act or omission” gaps.
3. Implement legislation to encourage state courts to enforce Tribal civil orders.
4. Address the disconnect between Orders of Protection and concealed weapons permit for NICs check.
5. Dissolved restraining orders: Who is responsible at the Court level for communicating the updates to CJIN?
6. Make the mandatory reporting to NCIC by counties and Tribes enforceable.
7. Simplify with “shall” arrest if there is an injury.
8. Orders of Protection: the leeway Judges have – it’s temporary or permanent with no hearing or until a dismissal. Puts a great burden on the respondent to request a hearing
9. Statutory mandate to enforce Orders of Protection.

Meeting evaluations summary

1. What were the **most** productive or helpful or interesting segments of the meeting?

- Discussion.
- Variety of perspectives of participants.
- Good, honest, informative.
- Everything was great.
- Much more productive than last meeting.
- Brainstorming and data that reflects what has been subcommittee version what could be entered into the system.
- Group discussions.
- Training section ... training was planned.
- US Attorney presentation.
- Discussion about summit and training were productive.
- Fine tuning who big names are and how to get them to sign on.
- The attempt toward uniform forms, codes, etc. from the State of MT. Tribal courts being recognized! We are revising and finalizing a new DV Code. Will review and get these approved through the Tribal Council.
- Information and networking.
- I really liked the 1 pager Order of Protection.

2. What were the **least** productive or helpful or interesting segments of the meeting?

- NCIC / CJIN – maybe because our Tribe does not have this for our access.
- All agenda items were helpful.
- Introductions were a little slow.
- I don't believe we developed a focus to solve the Brady reporting requirements.
- Arranging inter-action summit.
- Overall productive.

3. Did you **accomplish** what you wanted to accomplish? If so, what subjects or issues or topics were they? What did you get out of the meeting, if anything?

- Complexity of the issue. All the different components that need to work together.
- Yes – goals fulfilled.
- Forms.
- Yes.
- More information regarding actual use of CJIN.
- Yes. Decided forms, training focus and some legislative plans.
- Yes.
- Because I missed the first meeting I had no objectives for this one, but thought it was productive.
- Yes, morphed Summit meeting ... narrowed down into who to start working on.
- Once the forms are finalized to train the Tribal Court, Prosecutors, and LE on the

- Northern Cheyenne Reservation. Need more Tribes to participate in this endeavor.
- Yes, information, directions and ideas.
 - I would like to see the training for Great Falls for Police and Sheriffs.

4.a. What **changes and improvements** do you suggest for future meetings like this one?

- I think the format is good.
- Focus, focus.
- Need to start earlier, like 9:00 to 9:30, and have one hour for lunch.

4.b. What would you like to have left **exactly as it was** at this meeting? Keep these characteristics:

- Wingate was a great facility.
- I like the meeting format.
- Liked the meeting site. Good lunch.
- The facilitator was great. The schedule and following it was wonderful.
- The open communication and participation of the Advisory Council.
- Facilitator.

5. Any other suggestions, feedback or comments you would care to make?

- My officers and DV employees have been trained by Changleska from Rapid City, SD. We have trained other Tribes by our Special Prosecutor Unit. It was very successful.
- Keep plodding ahead on these issues.
- Good job.
- Great job Matt and Joan.

Acronyms the group uses

CJIN	Criminal Justice Information Network
COLJ	Courts of Limited Jurisdiction
NCIC	National Crime Information Center
OOP	Orders of Protection
FBI	Federal Bureau of Investigation
ATF	Alcohol Tobacco & Firearms
BIA	Bureau of Indian Affairs
USAO	U.S. Attorney's Office